

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14307US02)

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,193

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
MEDIA EXCHANGE NETWORK
FUNCTIONALITY ACCESSED
VIA MEDIA PROCESSING
SYSTEM KEY CODE ENTRY

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation No. 5333

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REPLY BRIEF

Mail Stop Appeal Brief — Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on October 27, 2010 ("Examiner's Answer"), with a reply period through December 27, 2010. Claims 1-36 are pending in the present Application. The Appellant has responded to the

Examiner in the Examiner's Answer, as found in the following Arguments section.

As may be verified in the Final Office Action (pages 2-17), dated March 15, 2010 ("Final Office Action"), claims 1-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable by USP 6,766,956 ("Boylan") in view of USP 5,675,647 ("Garneau"). See the Final Office Action at pages 2-17. To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit August 9, 2010.

STATUS OF THE CLAIMS

Claims 1-36 were finally rejected. Pending claims 1-36 are the subject of this appeal.

ARGUMENTS

I. Rejection to Claims 1-36 under 35 U.S.C. § 103(a)

I-A. Independent Claims 1, 7, 13 and 21

The Appellant stands by the arguments made in the corresponding section of the Brief on Appeal. Namely, the combination of Boylan and Garneau does not disclose or suggest at least the limitation of "...authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes," as recited by the Appellant in independent claim 1.

In regards to independent claims 1, 7, 13 and 21, the Examiner's Answer (pages 19-21) states the following (emphasis added):

"Appellant's Argument (I-A): Appellant presents (Appeal Brief received August 9, 2010 ("Brief") Pages 12-19) that the combination of Boylan and Garneau does not disclose or suggest "... authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes" because "[f]or example, Garneau's 'promotion code' (the alleged 'key code') and the 'validation code' are not the same, as alleged by the Examiner ... [i]n other words, **Garneau does not disclose or suggest that the same code, which is used for associating with the media** (i.e. pay per view programs), **is also used for authorizing the communication of the media**" (emphasis added by Appellant, Brief middle of Page 14; with further reference to Pages 12-13). Additionally, in

response to the Examiner's comments in Advisory Action mailed June 1, 2010 (quoted by Appellant on Page 16 of Brief), Appellant further presents that:

"The Examiner's argument is still deficient, because **Appellant's claim 1 clearly recites** 'associating, outside of the home, a plurality of key codes with a corresponding plurality of media files ... ' In other words, **the entire portion of Appellant's plurality of key codes corresponds to the plurality of media files. Garneau's subscriber terminal ID, at least in this respect, does not correspond to the media files.**" (Brief top of Page 17)."

Examiner's Response: The Examiner respectfully disagrees. As the Examiner has previously presented (Final Office Action mailed March 15, 2010 ("Office Action"), Pages 4-6), "Boylan discloses the use of key codes for accessing promotional content communicated from a broadcast distribution facility" (as introduced in Abstract and Fig. 5; as presented in Office Action Pages 4-5) "but does not explicitly describe authorizing ... and ... communicating ... " (as presented in Office Action Pages 5- 6). The Examiner notes that Garneau is not solely used to address Appellant's claimed "key codes". In particular, for example, Boylan is relied upon to demonstrate the "associating ... a plurality of key codes with a corresponding plurality of media files" by way of "codes" such as a bar-code, which are associated with media from sites such as a web-site, a television distribution facility, or data service provider (as Boylan describes in Col. 1 Lines 46-65 and Col. 2 Lines 3-64; with further reference to Office Action Page 4). To complement the teachings of Boylan, **the Examiner has relied upon Garneau to demonstrate the claimed "authorizing ... and ... communicating" steps of Claim 1** (Office Action Pages 5-6; with further reference to Garneau Col. 7 Line 39-Col. 8 Line 27). In particular, **Garneau discloses providing a "promotion code"** (also referred to by Garneau as a "program code"), **which a subscriber can enter as part of a 14 digit event request code** for a specifically desired service such as a pay per view program (Col. 5 Lines 61-67 and Col. 6 Lines 22-31). The Examiner has additionally cited that Garneau teaches the claimed "authorizing ... " by way of the acceptance of a password that is provided to the subscriber in response to the correct decryption of the event request code, which provides access to a desired program (Col. 8 Lines 14-27).

The Examiner acknowledges that multiple codes are involved in Garneau's process of authorizing communication of a media file. In particular, Garneau discloses that "[i]n accordance with a successful embodiment, **the 14 digit code** was in the general format: AAAAAAEEEECBBBV" were **AAAAAA identifies the subscriber terminal**, **EEE "is a field that contains the number of the service or pay per view event ordered by the subscriber"**, and V is a validation code (elements of the 14 digit code are completely defined in Col. 7 Lines 1-37), where the Examiner construes the EEE portion of the 14 digit code to be the "program code" and the whole 14 digit code to be the "event request code", as introduced above. **The Examiner additionally acknowledges that the AAAAAA portion, which is the subscriber terminal 10, is not itself associated with a media file, however, the EEE portion, which is the program code, is clearly associated with a media file, such as a pay per view event or other service.**"

The Examiner is respectfully referred to Appellant's claim 1, which recites "associating, ... a plurality of key codes with a corresponding plurality of media files, each of said plurality of key codes corresponding to a plurality of key sequences". **It is apparent that each of the plurality of key codes corresponds to the plurality of key sequences, and also to the plurality of media files only.** Therefore, the plurality of key codes or the plurality of key sequences, do not correspond to anything else other than the plurality of media files.

In addition, Appellant's claim 1 also recites "authorizing ...using said associated plurality of key codes". In other words, **said** (the identical

or the same) plurality of key codes are used for the media files communication authorization step. Therefore, any “different key codes” used for the alleged “media files communication authorization” step does not read on Appellant’s claim limitation of “authorizing ...using said associated plurality of key codes”.

The Appellant now turns to the Examiner’s remaining arguments from the Examiner’s Answer. The Appellant initially points out that the Examiner made the following admissions in the Examiner’s Answer:

(1) The Examiner equates Garneau’s promotion code or program code (EEE) to Appellant’s “key codes”. The Examiner admits that Garneau’s program code (EEE) (the alleged “key codes”) by itself, is not used for authorizing communication of a media file.

(2) The Examiner acknowledges that Garneau instead, discloses using a 14 bit digital event request code (**AAAAAAEEECBBBV**) for authorizing communication of a media file. **In other words, Garneau does not disclose or suggest using the same alleged “key codes” (i.e., program code EEE) for authorizing communication of a media file. Garneau, instead, discloses using a different key code (the event request code (**AAAAAAEEECBBBV**)) for authorizing communication of a media file.**

(3) The Examiner additionally acknowledges that **the AAAAAA portion** of Garneau's event request code is the code associated with the subscriber terminal 10, which **is not associated with a media file**. The Examiner also acknowledges that the V code is for validation (which is also not associated with the media files). In addition, Garneau further discloses that the C code is an event channel number, which indicates which channel to broadcast, and the BBB code is for billing the subscriber. **In other words, Garneau's event request code (AAAAAAEEECBBBV) for authorizing communication of a media file, is clearly a "different key code", which includes not just the program code EEE, but also additional codes (AAAAAA ____ CBBV) that have nothing to do with associating to the corresponding media files.**

Based on the foregoing Examiner's admission and rationale (1) - (3), the Appellant maintains that **Garneau's event request code (AAAAAAEEECBBBV), which is used for authorizing communication of a media file**, does not read on "associating, ... a plurality of key codes with a corresponding plurality of media files, each of said plurality of key codes corresponding to a plurality of key sequences" or "authorizing ...using said associated plurality of key codes" as recited in Appellant's claim 1.

With this in mind, the Appellant now turns to the Examiner's remaining arguments. Specifically, the Examiner's Answer (pages 21-22) states the following (emphasis added):

"In response to Appellant's arguments, the Examiner initially notes that Claim 1 includes the language of: "[a] method ... comprising ... ", "associating ... a plurality of key codes with a corresponding plurality of media files ... ", and" ... authorizing using said associated plurality of key codes". **It is the Examiner's position that** the claim language "comprising" and "using" do not preclude additional steps or elements from the claimed limitations. With respect to the teachings of Garneau, **it is the Examiner's position that** incorporation of the subscriber terminal 10 or a validation code within the event request code does not diminish the fact that the event request code also contains the program code that is associated with the media file. Therefore, **the Examiner submits that** Garneau is using the program code as part of the authorization process because the program code is an element of the event request code, where the event request code is used to authorize access to a desired program based on the program code. The Examiner therefore submits that the combination of Boylan and Garneau teach the Claim 1 (and similarly Claim 7, 13, and 21) limitation of " ... authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes"

The Examiner's arguments may be summarized as follows:

(A) In effect, the Examiner seems to argue that "authorizing ...using said associated plurality of key codes" as recited in Appellant's claim 1, actually includes using some other additional elements other than "said associated key codes" for authorizing communicating of media files.

The Appellant respectfully disagrees, and points out that the Examiner has clearly misconstrued Appellant's claim 1. For example, the Examiner seems to allege that Appellant's claim 1 recites "authorizing ...**wherein said authorizing comprising** using said associated plurality of key codes". In other words, the Examiner's above argument is based on reading an un-recited claim limitation, namely "**wherein said authorizing comprising**" into Appellant's "authorizing ...using said associated plurality of key codes," as recited in claim 1. In this regard, the Appellant maintains that the Examiner has improperly rejected Appellant's claim 1 based on an un-recited claim limitation, and Appellant's claim 1 is submitted to be allowable.

(B) The Examiner further argues that *"it is the Examiner's position that incorporation of the subscriber terminal 10 or a validation code within the event request code does not diminish the fact that the event request code also contains the program code that is associated with the media file."*

The Examiner's above argument is irrelevant in view of the fact that the Examiner has misconstrued Appellant's claim 1, by reading an un-recited claim limitation, namely "**wherein said authorizing comprising**" into Appellant's "authorizing ...using said associated plurality of key codes," as recited in claim 1 (see above argument A). Specifically, Appellant's claim 1 clearly recites that the same limitation "key code" (which is equated as Garneau's "program code EEE"

by the Examiner), is used for authorizing the communicating of media files. Since Garneau's **event request code (AAAAAAEEECBBBV)** for authorizing communication of a media file, is a "**different key code**" which includes not just the program code EEE, but also **additional codes (AAAAAA ____ CBBV)** which have nothing to do with associating to the corresponding media files.

Based on the foregoing rationale, the Examiner's argument that "*it is the Examiner's position that incorporation of the subscriber terminal 10 or a validation code within the event request code does not diminish the fact that the event request code also contains the program code that is associated with the media file*", is moot.

(C) The Examiner further argues that "*Garneau is using the program code as part of the authorization process because the program code is an element of the event request code, where the event request code is used to authorize access to a desired program based on the program code*".

The Examiner, by his own admission, concedes that Garneau's event request code (not the program code) is used to authorize access to a desired program. It is therefore irrelevant for the Examiner to argue whether Garneau's event request code is based on the program code or not, Garneau's event request code has been modified to include other codes in addition to the

program code. The Examiner's above argument is based on reading an un-recited claim limitation, namely "**wherein said authorizing comprising**" into Appellant's "authorizing ...using said associated plurality of key codes," as recited in claim 1. In this regard, the Appellant maintains that the Examiner has improperly rejected Appellant's claim 1 based on an un-recited claim limitation, and Garneau does not overcome Boylan's above deficiencies.

Based on the foregoing rationale, the Appellant maintains that the combination of Boylan and Garneau does not disclose or suggest " ... authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes," as recited in Appellant's claim 1. Boylan and Garneau, therefore, do not establish a prima facie case of obviousness to reject Appellant's independent claim 1, and claim 1 is submitted to be allowable. Claims 7, 13, and 21 are also allowable at least for the reasons stated above with regard to claim 1.

I-B(1). Rejection of Dependent Claims 6, 12, 20 and 28

The Appellant stands by the arguments made in the corresponding section of the Brief on Appeal. The Examiner's Answer (pages 22-23) states the following (emphasis added):

“Appellant’s Argument (I-B-1): Appellant presents (Brief Pages 19-20) that the combination of Boylan and Garneau does not disclose or suggest "notifying a user of said one of said plurality of key sequences that is associated with a function for media exchange" because Boylan discloses "notifying the subscriber in advance of the existence of a code, for example, by way of advertisements in a newspaper, periodicals, or on a television screen." Appellant additionally notes that "claim 6 recites that the user is notified of the 'one of said plurality of key sequences that is associated with a function for media exchange', only after the steps in claim 1 have been carried out" (Brief Page 19-20; emphasis added by Appellant).

Examiner’s Response: The Examiner respectfully disagrees. **It is the Examiner's position that Claim 6 does not require the step of "notifying" to occur in any particular order, such that, even if (as argued by Appellant) Boylan's "notifying" occurs in advance of the existence of a code, Boylan's teaching of notification by way of newspaper, periodicals, or on a television screen is sufficient to address the claim limitation.**

The Examiner therefore maintains that the combination of Boylan and Garneau teach the limitation of "notifying a user of said one of said plurality of key sequences that is associated with a function for media exchange" as required by Claims 6, 12, 20, and 28.”

Appellant’s claim 6 recites a new claim limitation, namely, “a function for media exchange”, which takes place after notifying the user to input the key sequences associated with the media exchange function. In other words, inputting the notified key sequences associated with the “media exchange” function cannot take place, unless all the steps in claim 1 have first been completed. In this regard, the Appellant maintains that claim 6 does occur in a particular order, i.e., after completion of the steps in claim 1.

Since Boylan discloses "notifying the subscriber in advance, by way of advertisements in a newspaper, periodicals, or on a television screen", **which takes place prior to the user executing the alleged steps of Appellant's claim 1**, Boylan, therefore, does not disclose or suggest "notifying a user of said one of said plurality of **key sequences** that is **associated with a function for media exchange**", as recited in Appellant's claim 6. Garneau does not overcome Boylan's above deficiencies. Claim 6 is submitted to be allowable. Claims 12, 20 and 28 are submitted to be allowable at least for the reasons stated above with regard to claim 6.

Furthermore, the Appellant reserves the right to argue additional reasons beyond those set forth herein to support the allowability of claims 1-36 should such a need arise.

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CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-36 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: November 18, 2010

/ Frankie W. Wong /

Frankie W. Wong
Registration No. 61,832
Patent Agent for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 775-8093 (FWW)